IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 220/2007

Principal Chief Engineer and another. ..... Petitioners.

V/s.

Shri Alexinho F. Monserrat. ..... Respondent.

Mr. S. R. Rivankar, Government Advocate for the petitioners.

CORAM : S.A. BOBDE, J.

DATE : JUNE 21, 2007.

ORAL ORDER :

The petitioners have challenged the order of the State Information Commissioner imposing penalty under Section 19(8)(b) of the Right to Information Act, 2005. Mr. Rivankar, learned Government Advocate states that the penalty ought not to have been imposed on the Department for compensating the complainant to the extent of Rs.1,000/- because both the reasons for imposing the penalty are not justified.

2. One reason given by the Commission is that the Executive Engineer W.D.II, i.e. Shri P.B. Sheldarkar was not a Public Information Officer and, therefore, he ought not to have decided the application of the complainant without having jurisdiction to do so. According to Shri Rivankar, Shri Sheldarkar decided the matter because he was directed by the State Information Commission on

11.10.2006 to give this information. A perusal of the order dated 11.10.2006 at Annexure "G", however, does not show any direction to Shri Sheldarkar. The order shows the direction to the Public Information Officer, Executive Engineer, P.W.D., W.D.II. Shri Sheldarkar could not have proceeded to decide the application only because he was the Executive Engineer at that time. The authority to decide such an application would come only upon his appointment as the Public Information Officer and, admittedly, he was never appointed as a Public Information Officer.

3. The other reason given by the learned Commission is that Shri Sheldarkar seems to have given wrong information to the Secretary of the Chief Minister. According to Mr. Rivankar, learned Government Advocate the Commission has ordered an inquiry to find out whether the information provided by Shri Sheldarkar to the complainant is false or whether P.W.D. has submitted false report to the Honourable Chief Minister and, therefore, pending such an inquiry the penalty ought not to have been imposed. It, however, appears that an inquiry does not have a direct bearing on imposition of a penalty. The penalty has been imposed primarily on the ground that Shri Sheldarkar assumed the power of the Public Information Officer even though such a power was not conferred on him.

4. In view of the matter, there is no reason to interfere with the impugned order. However, rejection of this petition shall not affect the decision of the inquiry ordered by the Commission in any manner. Time to deposit the penalty is extended

by a period of four weeks. Petition disposed of.

S.A. BOBDE, J.

ssm.